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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,266	05/24/2001	Yoshihiro Izumi	925-197	9027
23117	7590	06/07/2005	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			SCHECHTER, ANDREW M	
			ART UNIT	PAPER NUMBER
			2871	

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/863,266

Applicant(s)

IZUMI ET AL.

Examiner

Andrew Schechter

Art Unit

2871

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 April 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 23 February 2005. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 19-21.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☒ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☒ Other: See Continuation Sheet.

Continuation of 3. NOTE:

The claims as submitted on 25 April 2005 are identical to the claims as submitted on 23 February 2005, which have been entered. However, the additional amendment to the inventorship has not been entered. A request to delete an inventor from the inventorship requires [see 37 CFR 1.48(b)] an acknowledgment "that the inventor's invention is no longer being claimed in the nonprovisional application" and a processing fee; neither is present in the applicant's response. Mr. Murai has therefore not been deleted from the inventorship.


Since Mr. Murai has not been deleted from the inventorship, and Mr. Murai did not sign the Rule 131 Declaration, the declaration is not signed by all the inventors, so it is insufficient in this regard. (See MPEP 715.04 regarding who may make such a declaration - there does not appear to be a showing that Mr. Murai is unavailable, for instance.) The Tsujimura reference is therefore still prior art, and the previous rejections are maintained.

Continuation of 13. Other:

Anticipating that the Tsujimura reference may not ultimately be deemed prior art, the examiner calls the attention of the applicant to two pertinent prior art references, Yoritomi JP 4-81820, already of record, and Takemura, U.S. Patent No. 5,757,444.

The examiner thanks the applicant for the comments made regarding the Yoritomi 4-81820 reference. The examiner agrees that Yoritomi does not disclose a) exposing a negative type photosensitive pixel electrode from the back side, b) using gate and source lines as masks during such a back exposure, and c) a substantially uniform parasitic capacitance between pixel electrodes and signal lines. The examiner notes that claim 19 is a device claim having product-by-process limitations, which are only limited to the structure implied by the process, rather than by the process steps themselves. In this case, it does not appear to the examiner that the structure implied by the recited process is distinguishable from the structure disclosed in Yoritomi. A device made following Yoritomi will not necessarily have a non-uniform parasitic capacitance, for instance, or differently positioned electrodes, as far as the examiner can see, so it is not clear that there is any structural difference which would make claims 19-21 distinguishable over Yoritomi.

The Takemura reference is similar to the Tsujimura reference, in that it discloses [see Fig. 4] using back-exposure to pattern a pixel electrode, using gate and source lines as masks during the process. Takemura teaches that the back-exposure is beneficial in that there is not a need for additional masks, and that the device made using this technique fixes the prior art problems relating to the parasitic capacitance between the pixel electrodes and the signal lines. It therefore appears to the examiner that, even were Tsujimura not available as prior art, the Takemura reference would be sufficient to provide the teaching for which Tsujimura is being relied on, combined with either the Kumagai or Yoritomi references.


Andrew Schechter
Primary Examiner
Technology Center 2800
2 June 2005